

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

OREGON NATURAL DESERT
ASSOCIATION,

Plaintiff,

No. CV 05-1616-AS

ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATION

v.

THOMAS E. RASMUSSEN, et al.,

Defendants.

MOSMAN, J.,

On April 20, 2006, Magistrate Judge Ashmanskas issued Findings and Recommendation ("F&R") (#73) in the above-captioned case recommending that plaintiff's motion for summary judgment (#23) be granted in part and denied in part and that defendants' cross-motion for summary judgment (#38) be granted in part and denied in part. On May 30, 2006, both parties filed objections (#78 and #79) to the F&R. On June 23, 2006, plaintiff filed a response (#80) to defendants' objections. Defendants filed a response (#83) to plaintiff's objections on June 27, 2006.

In conducting my review of the F&R, I apply the following standard. The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is

made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, the court is free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

After reviewing the F&R, objections, and relevant pleadings, the court agrees with Judge Ashmanskas' recommendation to grant in part and deny in part plaintiff's motion for summary judgment (#23) and to grant in part and deny in part defendants' cross-motion for summary judgment (#38). Accordingly, the court ADOPTS the F&R in its entirety without modification. IT IS SO ORDERED.

DATED this 6th day of September, 2006.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court